

The Planning Commission for the City of Junction City met on Thursday, August 16, 2012, at 6:30 p.m. in the Council Chambers at City Hall, 680 Greenwood Street, Junction City Oregon.

**PRESENT WERE:** Commissioners, Brad Lemhouse (Chair), Jeff Haag, Jenna Wheeler, Karen Leach and Jason Thiesfeld; Planning Commission Alternate, Patricia Phelan; Planner, Stacy Clauson; City Administrator, Kevin Watson; City Attorney, Carrie Connelly; and Planning Secretary, Tere Andrews; **ABSENT:** Planning Commissioners, Donna Bernardy and Sandra Dunn

**I. OPEN MEETING AND REVIEW AGENDA**

Chair Lemhouse opened the meeting at 6:31p.m. and reviewed the agenda.

**II. PUBLIC COMMENTS (FOR ITEMS NOT ALREADY ON THE AGENDA)**

Mr. Gary Crum, 25534 Hall Road, Junction City OR 97448 commented on a flyer sent out by an organization (organizers unknown) regarding the possibility of a Wal-Mart being built in Junction City. Mr. Crum stated the flyer was filled with misinformation. He tried to find the author of the flyer. He could not because the return address was incomplete. The return address was for an apartment complex and there was no apartment number on the return address. The managers of apartment complex became aware of the flyer when Mr. Crum contacted them. He asked if the author of the flyer was present. No one responded.

**III. PUBLIC HEARING – AMENDMENT TO JUNCTION CITY ZONING ORDINANCE AND COMPREHENSIVE PLAN, FILE NO. CPA-12-01**

The City Council rescheduled their public hearing to Thursday, September 6, 2012 at 6:30 pm.

Chair Lemhouse reviewed expectations for the public hearing.

He then opened the public hearing for CPA-12-01. He asked the Planning Commissioners if there were any actual or potential conflicts of interest.

Commissioner Leach declared a potential conflict of interest. She owned property within the proposed area of the commercial Urban Growth Boundary (UGB) expansion.

Commissioner Leach declared her ability to be impartial.

Commissioner Haag declared a potential conflict of interest. He owned property within the proposed area of the commercial Urban Growth Boundary expansion.

Commissioner Haag declared his ability to be impartial.

City Administrator Watson gave the staff report. A periodic review of the city's comprehensive plan was conducted as required by Oregon state law. It was guided by the Statewide Planning Goals. There are 19 such goals, 14 of which applied to Junction

City. It was a review of the sufficiency of land within the current UGB. The process included:

- Citizen involvement which had taken place through community visioning workshops, a Citizen Comprehensive Plan Committee (CCPC), public meetings and public hearings
- Protection of agricultural lands, open spaces and wetlands
- Expansion of the UGB was needed to ensure sufficiency of land for industrial, commercial, residential and public uses

Junction City was conducting a customized periodic review (CPR). The city was allowed to consider land needs for industrial, commercial and residential designations in phases.

#### Phase I

- Land needs were identified for industrial and commercial uses as well as the State facilities to the south.
- A UGB expansion alternatives analysis for industrial lands and State facilities was conducted.
- A preliminary Local Wetland Inventory (LWI) was conducted and the results shared at an open house held in 2009.

From Phase I came a UGB expansion for the State prison and hospital site and a site to the south of that which was owned by Grain Millers. The process was guided by public input through the Citizen Comprehensive Plan Committee (CCPC). It also went before the Planning Commission and City Council. Phase I was completed in 2011.

#### Phase II

Phase II began in the fall of 2009. It required the identification of land needs for residential and park uses. There was also a refinement of the types of land needed for commercial uses.

- The LWI was finalized and used in development of a local wetland protection program as required by the State.
- A UGB Expansion Alternatives Analysis was conducted for residential land needs, parks and commercial uses.
- As part of the periodic review process there were proposed revisions to the city zoning ordinance
- The public process included two (2) Community Visioning Workshops, one (1) held in 2008 and the second in 2010.
- A total of 10 Citizen Comprehensive Plan Committee (CCPC) meetings were held between June, 2010 and May, 2011.

- The CCPC was comprised of Citizen members, Planning Commissioners and City Councilors.
- The CCPC made key recommendations to staff, the Planning Commission and City Council.
- A Customized Periodic Review Subcommittee (CPR) was formed at the direction of the City Council and was comprised of a Council representative, Planning Commissioner and citizen volunteers.
- The CPR Subcommittee held seven (7) meetings between February, 2012 and June, 2012.
- The CPR Subcommittee provided direction about revisions to some assumptions within the EOA (Economic Opportunities Analysis).
- In January, 2012 a notice regarding the development of wetland regulations was sent out to the community.

### Alternatives Analysis

The Alternatives Analysis was based on results from the EOA. The EOA was completed in 2008/2009 during Phase I. It was adopted in 2009 and acknowledged by the State in 2010.

A Housing Needs Analysis was conducted which was done between 2010 and 2012.

A Local Wetlands Inventory (LWI) and associated ESEE (Economic, Social, Environmental, and Energy) Analysis was conducted between 2008-2011. It was approved by the Department of State Lands (DSL) in 2011.

The Parks and Open Space Master Plan was adopted by the City Council. It also played a role in the Alternatives Analysis.

The applicable planning policies were:

- Goal 5, Natural Resources, which included the LWI and protection program as required by the State
- Goal 9, Economic Development, which included the Commercial Land Needs in Phase II
- Goal 10, Housing, which was the residential and park land needs
- Goal 14, Urbanization, included unique criteria and location factors which affected Junction City

### Statewide Planning Policies for the UGB Expansion

Oregon Revised Statute (ORS) 197.298 prioritized for a UGB expansion and guided the Alternatives Analysis. There were four (4) Priorities that affected Junction City.

- Exception Areas (developed areas outside the current UGB) along Highway 99 and/or Pitney Lane under current consideration
- Agricultural Lands (based upon soil quality)
- Forestry Lands
- Resource Lands

Statewide Planning Goal 5, Wetland Policies, required jurisdictions such as Junction City to complete an inventory and significance determination of wetlands as outlined in the Oregon Administrative Rules (OAR 141-086).

- Significant Wetlands as defined by the State must be identified with criteria developed by Department of State Lands (DSL).
- They are determined largely by habitat and water quality functions
- The Junction City inventory conducted to meet the OAR's was approved by DSL.
- OAR 660-023-005(1) directed local governments to adopt comprehensive plan provisions and land use regulations to achieve Goal 5 protections for all significant wetlands. There were two (2) options for the process:
  - ◇ Safe Harbor – this was criteria supplied by the State. If used adoption of an ordinance that protected all significant wetlands with protection levels comparable to those of full protection was required
  - ◇ Standard Approach – a community would conduct its own analysis and determine how to protect its significant wetlands

The city chose the Standard Approach. The protection levels options were as follows:

- Full Protection
  - ◇ Prohibits any sort of development, grading or vegetation removal
  - ◇ Allowed maintenance of existing non-conformances
  - ◇ Allowed restoration of wetlands

The city did not choose to protect any wetland to the full protection level.

- Partial Protection
  - ◇ Allowed a desired amount of protection for
    - Parks
    - Streets
    - Other public facilities
    - Replacement of vegetation
    - Flood control management
  - ◇ Some of the local protections were partial protections.

- No Local Protections

- ◇Protections were through the State process
- ◇There were several areas that fell under this category

Under Partial and No Local protection:

- Existing structures could be maintained, repaired and/or replaced
- Interior remodels could be done
- Structural additions were possible so long as it was outside the wetland area
- Continued mowing of lawns was possible
- Existing Vegetation could be replacement
- The use of herbicides was acceptable

There had been questions about annexation. City Administrator Watson stated the city was not looking to annex any property. There was no record the city had ever forced annexation.

Public comments received as oral or written testimony would be considered. The appropriate changes would be made to the documentation and proposal within the EOA, the Housing Needs Analysis and findings from the Alternatives Analysis.

The staff report and all exhibits were submitted into the record together with the additional comments received since the staff report was written.

Chair Lemhouse opened the floor for public testimony.

### **Public Testimony**

Chair Lemhouse stated the opportunity to submit written testimony would remain open a minimum of one (1) more week.

He asked that those testifying state their name and address for the record.

The Planning Commission would allow those who signed up to speak the ability to give their time to another speaker. A speaker could then have six (6) minutes rather than three (3) minutes to give testimony.

Edith Loveall – 1315 Oak Drive, Junction City Oregon, 97448. Ms Loveall said it appeared the city was not maintaining the ditches this summer as they were wet. Water was running in through a pipe. She asked where the water was coming from and who authorized the use of the wells to water the weeds in her ditch.

There was a 15-foot wide by 153-foot long utility easement along her property. She understood Planner Clauson to say 20-feet was already considered part of the Junction

City wetlands inventory. The city had already stolen a 5-foot wide by 153-feet long strip of her property without due process.

She contacted Carol Ann Simmons at DSL who told her if the city were to take any more of her property the city had to file a petition with DSL. DSL would in turn inform Ms Loveall. That had not been done. She asked how the city could justify stealing people's property like that.

The water in ditches increased mosquitoes which could carry the West Nile virus. She asked how the city would control the mosquitoes when the EPA (Environmental Protection Agency) forbid spraying in wetlands.

Commissioner Haag responded the city had not added wetlands. What the city had been given was a list of wetlands from the State with the requirement to figure out how to protect them and help the people or the State would do it for us. What the Planning Commission had tried to do was to protect the individual property owner's civil rights; allow you to mow, have bike paths and build up to the very minimum line. Public Works could probably address the question of why there was water in the ditch on her property.

Administrator Watson said the water system was flushed twice per year. That recently took place. The water eventually made its way into the ditches. In addition the capacity within the Public Works Department was limited. There was (1) employee who mowed all the ditches.

Gwendolyn Hanavan, 1280 Quince Drive, Junction City, Oregon 97448 conceded her time to Lou Hanavan.

Lou Hanavan, 1280 Quince Drive, Junction City Oregon 97448, read a written statement to the Planning Commission. Points in his statement included:

- The WRD (Wetland Resources Overlay District) proposal would take privately owned property into the public domain paramount to a public condemnation.
- Junction City's drainage channel easements were devised to drain waters away from neighborhoods, schools and businesses.
- Land owners had hoped culverts would be placed in the drainage ditches. However culverts would not be allowed with the drainage easement area labeled as wetlands
- Army Corp of Engineers filed a map with DSL which labeled all land subject to drainage channels easements as wetlands which became the basis for the proposed WRD.

He urged the Planning Commission to protect property rights against unjust taking of private land.

Earl Kelley, 420 E 9<sup>th</sup> Avenue, Junction City Oregon, 97448, a channel ran right by his driveway. He noted nutria lived in the ditch. He had lived in the area for quite awhile. He did not feel the drainage ditches met the criteria to be considered wetlands. He asked if they were declared wetlands to off-set the construction taking place south of town (impervious surfaces). He was opposed to the idea of a wetland on his property because there had not been wetlands there before the ditches were created.

Rob Rissberger, 1240 Quince Drive, Junction City Oregon, 97448, the drainage ditch ran behind his house. He owned that property and paid taxes on it. It was an easement for the city. It was a drainage ditch, not a wetland because it was dry two-thirds of the year. His concern was taking property away from property owners for the creation of wetlands that did not exist in that area. He noted the plan did not specifically allow existing uses such as fences and/or sheds to continue.

Chair Lemhouse responded if they were existing uses they were okay.

Commissioner Thiesfeld noted the Planning Commission had not placed full-protection on any of the areas, to give the property owner that flexibility.

Mr. Rissberger was opposed to the ditches being labeled wetlands.

Keith Devine, 1260 Quince Drive, Junction City Oregon 97448. His property also backed up to the drainage ditch. He asked what authority the State had to dictate to the city that the drainage ditch was now a wetland. He asked how far the restriction extended, 10 feet, 20 feet.

Planner Clauson replied the city did not propose a buffer which would protect the wetland and an area outside the wetland as a bumper area.

Mr. Devine asked if the State declared a buffer area, what were property owners' protections at that point.

Planner Clauson explained any changes to the local regulations would have to go through a similar process as what he was participating in now and there would be notice of that.

Chair Lemhouse said the proposed ordinance was on the city website. It may address some of Mr. Devine's concerns.

Alan Close, 750 W 17<sup>th</sup> Avenue, Junction City OR 97448 was opposed to the drainage ditch being declared wetlands and the spraying of the ditches.

Nick Klingensmith, from the Law Office of Bill Kloos, 275 W 4<sup>th</sup> Avenue Suite 204, Eugene OR 97401, represented the owners of the Oaklea site. He submitted a letter earlier in the day to staff. He referred to appendix A of that document. All lands designated as open spaces on the Oaklea site had been designated as wetlands. Some of those areas had actually been intended as bike paths. He suggested the ESEE

Analysis should be corrected to clarify this as the wetland designation could frustrate the ability to build those bike paths.

Mia Nelson, represented 1,000 Friends of Oregon, 220 E 11<sup>th</sup> Avenue, Suite 5, Eugene OR 97401, submitted an 11-page letter last week which outlined the areas in which they felt the EOA fell short in its rationale for urbanization of farmland. They did not feel the case was made for urbanization of high value farmland that was proposed to be included in the commercial UGB expansion.

Jim Herring, 94812 Turnbow Lane, Junction City Oregon 97448, spoke in support of Commercial expansion of the UGB.

George Nielsen, 93390 Highway 99, Junction City, Oregon 97448, conceded his time to Gary Crum.

Gary McNeel, 310 Pitney Lane #39, Junction City Oregon 97448, spoke in opposition to the identification of ditches as wetlands. They were constructed as flood control and never intended for regulation. He asked that private property boundaries and rights be respected. He suggested the commercial aspect of the UGB expansion could run afoul of ODOT access management regulations. He was opposed to increased density designations along Pitney Lane as it was inadequate to serve existing traffic flow.

Vic Leopold, 1667 Ivy Street, Junction City Oregon 97448, expressed appreciation for Commissioners Haag's and Thiesfeld's comments earlier in the public hearing. He was concerned about the State involvement regarding designation of portions of his property as wetlands. He recognized the Planning Commissioners were as invested as the rest of the community in the decisions to be made. He asked what brought about the designation of the drainage ditches as wetlands; at what point did the State become involved.

Chair Lemhouse said the local wetland inventory was part of the comprehensive plan update.

Don Jongward, 94570 Oaklea Drive, Junction City OR 97448, his property line was the north boundary of the Oaklea site. He spoke in favor of development of the Oaklea site. His concern was with the wetlands. He did not see how the property met the criteria of a wetland.

Grace Zemmer, 475 E 9<sup>th</sup> Avenue #306, Junction City Oregon 97448, asked about the water line replacement project. Her water was still brown. She was very opposed to a Wal-mart in Junction City.

Commissioner Haag assured Ms Zemmer there was not a proposal for a Wal-Mart in Junction City.



Clarke 'Corky' Wilde, 1180 Quince Drive, Junction City Oregon 97448 as a former Mayor and City Councilor of Junction City he cautioned the Planning Commission to have safeguards in place as State government changed every few years and the rules along with that change.

Regarding the wetlands he gave some history on how the ditches had been misused for illicit purposes in the past. That was why the city began mowing the ditches. He suggested contracting the mowing services out if necessary.

Cheryl Glasser, 770 Spruce Street, Junction City Oregon, 97448, her property was part of the federal flood control channel, a portion that was in the county. Over one-third of her property was in the flood control channel. It was a three (3) foot ditch in 1964. It had since enlarged to prevent the city from flooding. It was now about 30-feet across and 5-foot deep. Should that be designated as wetlands it would take two-thirds of her property. The Army Corp of Engineers maintained the ditch when she purchased the property since then the city has taken over that maintenance. Surrounding development had increased the run-off which crossed her property via the channel. She asked why the portion of the channel along Guaranty's property line was not labeled as wetlands. She was opposed to wetland overlay.

Jeff Newman, represented Little Lake Properties Inc, 18859 Little Lake Road, Blachly, OR 97412 he asked what would happen, with future development, to the drainage ditches. There were on-going drainage issues. He was concerned the ditches would not be maintained with their identification as wetlands.

Gary Crum, 25534 Hall Road, Junction City Oregon 97448, responded to the comments made by Ms Nelson. The job of 1,000 Friends of Oregon was to challenge. Our (the citizens) job was to do what was best for the community and support that decision. Mr. Crum was a citizen member of the Citizen Comprehensive Plan Committee. He felt members of that committee had worked hard to address the concerns raised by Ms Nelson.

Chair Lemhouse called for a break at 8:09pm

Chair Lemhouse reconvened the meeting at 8:16 p.m.

Claudia Allgood conceded her time to Cheryl Glasser.

Patricia Hintz 92696 Highway 99, Junction City, Oregon 97448 asked what the term 'commercial expansion area' meant.

Planner Clauson responded to Ms Hintz that her property was proposed for inclusion in a UGB expansion and the designation would be general commercial.

Ms Hintz said that did not mean they had to change anything about her property.

Chair Lemhouse responded nothing would change unless Ms Hintz decided to annex into the city.

Marybeth Revell 1016 Oak Drive, Junction City Oregon 97448 asked if there was going to be a buffer around the ditches. If not, she did not understand why she received a letter that stated her property contained wetlands when the ditch was behind her property.

Commissioner Haag responded if someone wanted to build an extension on their home and it came within 20-feet of a designated wetland it would require a wetland survey to determine the exact edge of that wetland. The wetland edges, in the inventory, were estimated from aerial photos. The standards would only apply to areas that were determined to be wetlands.

Planner Clauson added the standards would only apply to areas determined to jurisdictionally be a wetland.

Ms Revell asked who made that decision.

Planner Clauson replied there were a couple of different avenues; DSL offered a free service where they looked at maps and the property owner's proposed addition to see if a determination could be made. If DSL was not comfortable doing that the second alternative was for the property owner to hire a wetland scientist.

Ms Revell asked about the next steps in the process.

Planner Clauson replied the Planning Commission would make a recommendation to the City Council. There was a request to have the comment period left open. At minimum the written record for this hearing needed to be left open for an additional seven (7) days. The Planning Commission would need to take action on exactly how many days to leave the record open. After the Planning Commission made their recommendation, the City Council, as the decision-maker, would hold their public hearing which was scheduled for Thursday, September 6, 2012 at 6:30 p.m. in the Council Chambers at City Hall.

Chair Lemhouse asked if there would be minor changes made to the findings after testimony had been received.

Planner Clauson replied they would take note of all the testimony and decide where revisions to any of the materials may be needed. Revised documents would be returned to the Planning Commission. The Planning Commission needed to schedule a date for their deliberations.

Chair Lemhouse noted there were no other people signed up to speak. He asked the audience members if there were any comments.

Theresa Padilla, 1140 Quince Drive, Junction City OR 97448 had a shed on her property. They planned to replace it next year. It currently sat along the ditch at the back of their property. She was concerned that the cost of a wetland scientist would deter her plans. She did not want the designation of wetlands associated with the ditch on her property.

Chair Lemhouse replied the wetlands were there, any work in that area involved the State requirements whether Junction City had requirements or not.

Ms Loveall said she planned to contact Representative DeFazio.

Chair Lemhouse asked the Commission if they wanted to leave the oral testimony open.

Attorney Connelly explained the benefit to leaving the oral testimony open was that anyone who had not had an opportunity to testify would have that opportunity if the public hearing were continued. It would be for new testimony only. If left open it could prolong the process. If the oral record were closed now and as per code the written testimony left open for another seven (7) days, it offered staff a chance to review testimony and get back to the Planning Commission at their next meeting.

Commissioner Wheeler felt it was important to leave the record open for oral testimony.

Commissioner Thiesfeld said he preferred to close the oral testimony. Written testimony would still be accepted.

Lloyd Davis, 1350 Ivy Street, Junction City Oregon 97448, commented the areas under discussion were used as ditches.

Chair Lemhouse said the ditches could be maintenance for flood control purposes.

Planner Clauson said the proposed regulations contained broad provisions to allow for flood control maintenance.

Mr. Crum understood that the wetland inventory was not a choice rather it was something that had to be done.

Planner Clauson agreed he was correct.

Mr. Crum added the city was not proposing anything more restrictive than what DSL required.

Planner Clauson clarified that DSL had an exemption for 50 cubic yards of fill. That did not require a permit.

Mr. Crum asked who had jurisdiction over the drainage ditches.

Planner Clauson answered the State through DSL.

Chair Lemhouse said the State had jurisdiction over the wetlands but the city had been responsible for the maintenance.

Planner Clauson added in some cases the Water Control District also had responsibility for maintenancel.

Administrator Watson said the city would continue to maintain the channels as they had been.

Ms Hintz asked if her property were in the UGB would that mean the ditch along Highway 99 would be declared wetlands.

Attorney Connelly responded the proposal for UGB expansion would allow you to petition the city to be annexed. At that point city zoning would be applied to your property. In the interim the property would be under Lane County zoning.

Ms Hintz restated the UGB expansion would not affect the ditch as far as wetlands.

Attorney Connelly said that was correct.

Chair Lemhouse continued with the discussion of whether or not to close the oral testimony.

Commissioner Haag wanted to close the oral testimony. The written testimony would remain open.

Commissioners Leach, Phelan and Thiesfeld agreed.

**Motion:** Commissioner Leach made a motion to close the public hearing for CPA-12-01 for oral testimony. The written record would be kept open until Friday, August 24, 2012, at 9:00 am. The motion was seconded by Commissioner Phelan.

**Vote: 5:1:0**

Chair Lemhouse, Commissioners, Haag, Leach, Thiesfeld and Phelan voted in favor. Commissioner Wheeler voted against.

Chair Lemhouse closed the public hearing for CPA-12-01.

**Motion:** Commissioner Wheeler made a motion to re-convene the Planning Commission to deliberate on the testimony received at the public hearing held on August 16, 2012 and any written comments received by the deadline previously set (August 24, 2012 at 9:00 am) at 6:30 p.m., Wednesday, August 29, 2012 in the Council Chambers at 680 Greenwood Street, Junction City Oregon 97448. Commissioner Thiesfeld seconded the motion.

#### **IV. COMMISSIONER COMMENTS**

Commissioner Haag requested that a zoning issue which involved a businesses at the corner of W. 17<sup>th</sup> Avenue and Juniper Street be added to the future agenda items.

**Motion:** Commissioner Thiesfeld made a motion to adjourn the meeting. The motion was seconded by Commissioner Phelan.

**Vote: 6:0:0**

Chair Lemhouse, Commissioners, Haag, Leach, Thiesfeld, Wheeler and Phelan voted in favor.

The meeting was adjourned at 8:56 p.m.

The next regularly scheduled Planning Commission meeting would be Wednesday, August 29, 2012 at 6:30 p.m.

Respectfully Submitted,

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Tere Andrews, Planning Secretary

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Brad Lemhouse, Chair